

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 11/16/2021

CHRISTOPHER ANDRETTA,

Plaintiff,

-v-

CITY OF NEW YORK,

Defendant.

21-cv-5783 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

Plaintiff Christopher Andretta moves the Court for an order requesting that pro bono counsel be appointed to represent him. Dkt. Nos. 11, 13. Andretta is a pretrial detainee at a correctional facility on Rikers Island. He alleges that he has cancer which is in remission but that, while detained, he contracted COVID-19. He seeks unspecified relief. Dkt No. 12. The date for defendant, the City of New York, to respond is December 13, 2021. Dkt No. 8.


The Court has authority to request an attorney to represent a person who, like Andretta, is unable to afford counsel. The relevant factors are set forth in *Hodge v. Police Officers*, 802 F.2d 58, 60–62 (2d Cir. 1986), *cert. denied*, 502 U.S. 986 (1991). The Court considers (1) whether plaintiff’s position “seems likely to be of substance”; (2) whether the issues presented “might require substantial factual investigation” and “the indigent’s ability to investigate the crucial facts”; (3) “the plaintiff’s apparent ability to present the case” and “whether conflicting evidence implicating the need for cross-examination will be the major proof presented to the fact finder”; (4) whether the “case’s factual issues turn on credibility”; (5) whether the legal issues presented are complex; and (6) “any special reason ... why appointment of counsel would be more likely to lead to a just determination.” *Id.* at 60–62.

This case is at an early stage, and it is not yet known what issues are in dispute. Nor has the merits of the complaint been tested by a motion to dismiss. The Court is not able to make the *Hodge*’s finding in favor of Plaintiff at this time. Accordingly, the motion for appointment of counsel is DENIED without prejudice.

The Clerk of Court is respectfully directed to close the motions at Dkt. Nos. 11 and 13, to mail a copy of this Order to the pro se Plaintiff, and to amend the caption as stated above.

SO ORDERED.

Dated: November 16, 2021
New York, New York



LEWIS J. LIMAN
United States District Judge